

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MAUREEN BARRETT,
Plaintiff,

CASE NO. 8:23-cv-248

v.

NOTICE OF REMOVAL

WALMART, INC.,
Defendant.

(District Court of Sarpy County,
Nebraska, Case No. CI 23-223)

Without waiving any available defenses, including those pursuant to Rule 12 of the Federal Rules of Civil Procedure, Defendant Walmart, Inc. (“Defendant” or “Walmart”) hereby removes this action from the District Court of Sarpy County, Nebraska, Case No. CI 23-223, to the United States District Court for the District of Nebraska pursuant to 28 U.S.C. §§ 1332 and 1441(a). In support of this notice, Defendant states as follows:

1. Defendant removes this action to federal court based upon diversity of citizenship jurisdiction, 28 U.S.C. § 1332.

2. The Plaintiff, Maureen Barrett (“Plaintiff” or “Ms. Barrett”), filed her original Complaint on February 1, 2023, in the District Court of Sarpy County, Nebraska. The Plaintiff served Walmart with the original Complaint on February 6, 2023. Ms. Barrett thereafter amended her original Complaint twice, most recently filing her Second Amended Complaint (“SAC”) on June 2, 2023 and serving it upon Walmart on June 2, 2023. Walmart files this Notice of Removal within thirty (30) days after the receipt of the SAC. Thus, Removal is timely under 28 U.S.C. § 1446 (b)(1).

3. This Court has diversity of citizenship jurisdiction over the action because the controversy is between citizens of different states. The Plaintiff “is a resident of Omaha, Douglas County, Nebraska” (Ex. A, SAC, ¶1). Therefore, the Plaintiff is a citizen of Nebraska. Walmart “is a Delaware corporation with its principal place of business in Bentonville, Arkansas” (Ex. A, SAC ¶2). Therefore, Walmart is a citizen of a state other than Nebraska. Accordingly, complete diversity exists for removal pursuant to 28 U.S.C. § 1332.

4. The Plaintiff’s SAC alleges that she incurred “medical expenses to date total[ing] \$66,447.45.” (Ex. A, SAC ¶10). Ms. Barrett also alleges that her “injuries are permanent, and she may reasonably expect to incur future medical expenses in the care and treatment of her injuries” (*Id.*). Ms. Barrett further alleges that her injuries resulted in “physical pain, mental suffering, physical disfigurement, permanent injury to her body, emotional distress, inconvenience, anxiety, worry, stress, embarrassment, and humiliation” and that she may expect to experience “physical and emotional pain and suffering into the future” (Ex. A, SAC ¶9). Because of the Plaintiff’s allegations of significant past medical damages and the nature of the future and additional damages pleaded, Walmart has a good faith belief that the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. Dart Cherokee Basin Operating Co., LLC v. Owens, 574 U.S. 81, 89, 135 S. Ct. 547, 554, 190 L. Ed. 2d 495 (2014) (“In sum, as specified in § 1446(a), a defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.”).

5. Pursuant to 28 U.S.C. § 107, the United States District Court for the District of Nebraska is the federal judicial district encompassing the District Court of Sarpy County,

Nebraska, where this suit was originally filed. Venue is therefore proper in this district under 28 U.S.C. § 1441(a).

6. Walmart expressly reserves all defenses to the Plaintiffs' claims, including, but not limited to, all defenses based in law, equity, statute, constitution, jurisdiction, or immunity, any other defense or avoidance, and does not waive any defense by this removal.

7. Attached as Exhibit "A" and incorporated by reference is a true and correct copy of the state court pleadings served upon Defendant and removed by this notice. Exhibit "A" is a true and correct copy of all filings known to Defendant in the District Court of Sarpy County, Nebraska. To Walmart's knowledge, no other pleadings or papers have been filed with such court.

8. Attached as Exhibit "B" is a true and correct copy of the Notice of Filing of Notice of Removal which has been served with this document on all parties and will be filed with the District Court of Sarpy County, Nebraska.

9. Walmart requests trial of this matter in Omaha, Nebraska.

WHEREFORE, Walmart removes this action from the District Court of Sarpy County, Nebraska to the United States District Court for the District of Nebraska.

Dated this 6th day of June 2023.

WALMART INC., Defendant,

By: /s/ Mark J. Goldsmith

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CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

Kyle J. McGinn – kmcginn@omahapersonalinjury.com
Steven M. Lathrop – slathrop@omahapersonalinjury.com

/s/ Mark J. Goldsmith

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